

ORDINANCE No. \_\_\_\_\_, SERIES 2007

**AN ORDINANCE RE-ENACTING AND AMENDING THE PROVISIONS OF CHAPTER 153 OF LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF ORDINANCES (LMCO) RELATING TO PLANNING.**

**Sponsored By:** Councilmen Downard and Blackwell

**BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**SECTION I:** LMCO Chapter 153 is hereby re-enacted and amended as follows:

**§ 153.01 COMPREHENSIVE PLAN ADOPTED BY REFERENCE.**

(A) There is hereby re-adopted the Cornerstone 2020 Statement of Goals and Objectives which is attached to Jefferson County Ordinance 1-2000 as if fully set forth herein.

(B) There is hereby re-adopted the Cornerstone 2020 Plan Elements which are attached and incorporated in Jefferson County Ordinance 1-2000 as if fully set forth herein.

~~(C) The adoption of the Cornerstone 2020 Comprehensive Plan herein shall repeal and replace the existing Comprehensive Plan at such time as the attached Cornerstone 2020 Statement of Goals and Objectives and Cornerstone 2020 Plan Elements are adopted by all cities of the first through fourth classes in the Metro Government, and subsequently adopted by the Louisville Metro Planning Commission.~~

Editor's Note

~~The Cornerstone 2020 Comprehensive Plan became effective on June 15, 2000.~~

**§ 153.02 PLANNING COMMISSION FEE SCHEDULE.**

The Planning Commission fee schedule is found in the Land Development Code, which may be updated from time to time. ~~The following fees shall be charged and collected for services and administration of land use activities conducted by Louisville Metro Planning and Design Services under the authority of the Louisville Metro Planning Commission and Board of Zoning Adjustment:~~

~~(A) Plans submitted for pre-application review of proposed zoning map amendments, preliminary subdivision plans, or conditional use permits shall be assessed a fee of \$100.~~

~~(B) In filing any application for map amendment the following fee schedule shall apply. A fee shall be assessed for each type of action requested, including General District Development Plan according to the following schedule:~~

~~(1) For change proposed to any R-R, R-E, R-1, R-2, R-3, R-4, R-5, RRD, R-5A, R-5B, R-6, or R-7 District.~~

|                             | Fee     |
|-----------------------------|---------|
| Area less than 2.0 acres    | \$450   |
| Area 2.0 acres to 4.9 acres | \$900   |
| Areas 5.0 acres or more     | \$1,800 |

~~(2) For change proposed to any OR-1, OR-2, R-8A, OR-3, OTF, C-R, or C-N District.~~

|                             | Fee     |
|-----------------------------|---------|
| Area less than 2.0 acres    | \$900   |
| Area 2.0 acres to 4.9 acres | \$1,800 |
| Area 5.0 acres to more      | \$3,600 |

~~(3) For change proposed to any C-1, C-2, C-3, or C-M, W-1, W-2, W-3, EZ-1, M-1, M-2, or M-3, or any PRO, PEC, or PVD District.~~

~~Fee~~

~~Area less than 2.0 acres \$ 1,350~~

~~Area 2.0 acres to 4.9 acres \$2,700~~

~~Area 5.0 acres or more \$5,400~~

~~(C) In filing any application for a subdivision the following fee schedule shall apply. A fee shall be assessed for each type of action requested, according to the following schedule:~~

~~Fee~~

~~Preliminary subdivision plan \$ 800~~

~~Preliminary subdivision plan~~

~~(innovative) \$800~~

~~Revision of preliminary~~

~~subdivision plan \$160~~

~~Record plat \$400 plus \$5/lot~~

~~Revocation of recorded record plat \$160~~

~~Corrective recorded plat \$400~~

~~(for recording minor~~

~~corrections to a previously~~

~~recorded plat)~~

~~Minor plat \$125~~

~~Minor plat requiring waivers \$200~~

~~Minor plat for the sole purpose~~

~~of dedicating rights of way ————— \$0~~

~~Large format minor plat ————— \$200~~

~~(plus recording fee)~~

~~(D) In filing development plans requiring staff review, the following fees shall be assessed:~~

~~(1) Amended and/or revised general district development plan:~~

~~(a) If notice to adjoining property owners is not required —————  
————— \$180~~

~~(b) If notice to adjoining property owners is required ————— \$270  
plus \$1 per notice~~

~~(2) Detailed district development plan ————— \$270~~

~~(E) Amend or delete binding elements ————— \$160~~

~~(F) Applicant's request for continuance of application at LD&T or Public Hearing ————— \$480~~

~~(G) Extension of expiration date ————— \$240~~

~~(H) In filing any action before the Board of Zoning Adjustment the following fee schedule shall apply. A fee shall be assessed for each type of action requested according to the following schedule:~~

~~Variances to zoning regulations to accommodate:~~

~~Fee~~

~~Single family uses ————— \$ 70~~

~~Multi-family uses ————— \$180~~

~~(includes churches, parish  
halls and temples, schools  
and institutions of learning  
[except colleges, universities,  
trade, business, or industrial  
schools], not for profit, and  
clubs, private non-profit)~~

~~All others uses \_\_\_\_\_ \$450~~

~~Application for conditional use permit \_\_\_\_\_ \$750~~

~~Revision or modification of an approved  
development plan:~~

~~Conditional use permit \_\_\_\_\_ \$160~~

~~Variance \_\_\_\_\_ \$80~~

~~Appeal or other request for Board of~~

~~Zoning Adjustment administrative review \_\_\_\_\_ \$350~~

~~Applicant's request for continuance~~

~~(Variance or CUP) \_\_\_\_\_ 50% of original fee~~

~~(l) In filing any application for any of the itemized actions in this subsection  
(l), the following fee schedule shall apply. A fee shall be assessed for each type of  
action requested, according to the following schedule:~~

|                                  | Fee    |
|----------------------------------|--------|
| Street closure request _____     | \$ 160 |
| Street name change request _____ | \$ 160 |

~~Zoning certification~~ \_\_\_\_\_ ~~\$ 50~~

~~Landscape plan review fees:~~

~~For review of a landscaping plan request under Article 12,~~

~~Landscape and Land Use Buffers, the following fee schedule shall apply~~

~~(this fee is waived for certified businesses located within the state  
designated Enterprise Zone):~~

~~Base fee~~ \_\_\_\_\_ ~~\$160~~

~~Supplemental fee~~ \_\_\_\_\_ ~~\$5.00 for each~~  
~~1,000 square feet~~  
~~of parking lot, in~~  
~~excess of 6,000~~  
~~square feet~~

~~Landscape waiver~~ \_\_\_\_\_ ~~\$160~~

~~Tree Preservation plan review~~ \_\_\_\_\_ ~~\$150~~

~~Development review overlay~~

~~Activities eligible~~

~~for review and approval~~

~~by the Director~~ \_\_\_\_\_ ~~\$80~~

~~Activities requiring~~

~~review by the Planning~~

~~Commission~~ \_\_\_\_\_ ~~\$200~~

~~Waterfront review overlay~~ \_\_\_\_\_ ~~\$ 200~~

~~Sign review and approval~~ \_\_\_\_\_ ~~\$ 80~~

~~(also signature entrances)~~

~~Sidewalk waiver ————— \$160~~

~~Parking space waiver fees:~~

~~For a waiver in the number of parking spaces required, the following fee schedule shall apply:~~

~~Less than 5 spaces ————— \$320~~

~~5 to 15 spaces ————— \$480~~

~~Over 15 spaces ————— \$480~~

~~plus \$20~~

~~per space for~~

~~each space over 15~~

~~Certification of complete~~

~~case files ————— \$160 or~~

~~per page fee for~~

~~copying and material~~

~~costs, whichever~~

~~is greater~~

~~Community facility review~~

~~of an antenna tower for~~

~~cellular telecommunication~~

~~services or personal~~

~~communications services:~~

~~New tower construction~~

~~consisting of the replacement  
of existing electrical or telephone  
land line pole \$1,000  
New tower construction  
or augmentation to existing  
structure that increases the  
height or base of the tower \$2,500~~

~~(J) Article 16 (Fee Schedule) of the Development Code for all Jefferson County is hereby repealed.~~

**§ 153.03 TIME AND LOCATION OF PLANNING COMMISSION PUBLIC HEARINGS.**

(A) When public hearing dates are set by the Louisville Metro Planning Commission ~~and the affected property is located in Jefferson County~~, certain requirements must be followed in addition to procedures already in place.

(B) If the hearing has been scheduled at the Planning Commission regular place of business, and, if within 15 days of the scheduled hearing date the Commission shall receive a petition from 500 or more property owners living within the affected county district (such districts being the former County Commissioner Districts), requesting that the hearing be rescheduled for a time after 7:00 p.m. at a convenient location within such district, then the Planning Commission shall reschedule the hearing in the affected county metropolitan district no earlier than 7:00 p.m.

(C) Should the Planning Commission find the aforesaid necessary petition to be defective in any manner or if the Planning Commission is unable to reserve a suitable location for the hearing within four calendar weeks after the originally scheduled



hearing date, then the Planning Commission may hold the hearing at their regular place of business but after 7:00 p.m.

**§ 153.04      CATEGORY 3 REVIEW REQUIRED FOR PROPOSED PORTLAND NEIGHBORHOOD DEVELOPMENT.**

(A) All new building construction, expansions to existing structures, and interior alterations resulting in an increase in the number of dwelling units in the Portland Neighborhood, regardless of the size of the building or expansion or the number of units proposed, shall be required to go through a Category 3 review as set forth in the Land Development Code prior to issuance of permits by the Louisville Metro Department of Inspections, Permits, and Licenses.

(B) This section shall not apply to any building permit requested for the construction of an accessory structure for a single-family home or to the expansion of an existing residential structure, provided the construction or expansion does not result in any additional dwelling units. Further, this section shall not apply to structural changes to existing buildings or interior renovations that do not enlarge or result in a change in use or number of dwelling units of the building.

(C) All proposed subdivisions in the Portland Neighborhood, regardless of the number of lots, shall be required to go through a Category 3 review as set forth in the Land Development Code prior to approval by the Louisville Metro Planning Commission, or authorized designee thereof.

(D) This section shall apply to any building permit application and to any major or minor subdivision application received after the effective date of this section, to any pending building permit application received prior to the effective date which has not been approved by the Louisville Metro Department of Inspections, Permits, and

Licenses, and to any major or minor subdivision application received prior to the effective date which has not received approval by the Louisville Metro Planning Commission by the effective date.

(E) This section shall not apply to any applications for permits or subdivision approval, whether received before or after the effective date of this section, made pursuant to a development plan approved by the Planning Commission or committee thereof prior to the effective date of this section.

(F) For purposes of this section, the Portland Neighborhood is the area bounded as follows: Beginning at a point where Market Street intersects the railroad track between 13th and 15th Streets, then proceeding west along Market Street to 38th Street, then proceeding north along 38th Street (including parcels on both sides of 38th Street) to its intersection with Bank Street, then proceeding west along Bank Street (including parcels on both sides of Bank Street) to its intersection with Northwestern Parkway, then continuing east and then north along the boundary of Shawnee Park to the south bank of the Ohio River, then proceeding eastwardly along the south bank of the Ohio River to a point where the aforementioned railroad track would intersect the Ohio River, then proceeding south along said railroad track to the point of beginning, as shown on the map attached to Ordinance No. 4-2007 as Exhibit A.

(G) This section shall take effect upon passage and approval and shall remain effective for a period of two years after the effective date, unless repealed or extended.

(H) The effective date of this section is hereby extended an additional one year and shall take effect upon passage and approval and shall continue to remain in effect unless repealed, extended or the Portland Neighborhood Plan is adopted by the

Council. Planning and Design Services shall report to the Council in six months on the status of the Portland Neighborhood Plan and the Category 3 review process in Portland.

## **BINDING ELEMENT ENFORCEMENT**

### **§ 153.20 DEFINITIONS.**

(A) **BINDING ELEMENT.** A binding requirement, provision, restriction, or condition imposed by the Planning Commission of its designee, or a promise or agreement made by an applicant in writing, in connection with the approval of a land use development plan or subdivision plan.

(B) **LAND USE ENFORCEMENT OFFICER.** An officer authorized by the Planning Commission to enforce binding elements.

(C) **PLANNING COMMISSION.** The Louisville Metro Planning Commission.

(D) **LAND USE ENFORCEMENT OFFICER.** An officer authorized by the Planning Commission to enforce binding elements.

(E) **LAND USE ORDINANCE.** An official action of the Metro Council which is a regulation of a general and permanent nature relating to the use and development of land within Jefferson County. It is enforceable as a local law and includes any provision of the Code of Ordinances which embodies all or part of an ordinance.

### **§ 153.21 ENFORCEMENT OF BINDING ELEMENTS.**

The violation of any binding element, as defined herein, shall constitute a civil offense which may subject the violator to a civil fine and/or other remedial orders of the Planning Commission in accordance with procedures set forth in this subchapter.

### **§ 153.22 AUTHORITY OF THE PLANNING COMMISSION.**

(A) The Planning Commission may issue remedial orders and impose civil fines as a method of enforcing a binding element when a violation of that binding element has occurred.

(1) If the violation of a binding element would also constitute an offense under any provision of the Kentucky Revised Statutes, including specifically, and without limitation, any provision of the Kentucky Penal Code and any moving motor vehicle offense, such a violation of a binding element shall not be a civil offense under this subchapter but a criminal offense which may be prosecuted in the court of appropriate jurisdiction.

(B) In the exercise of its authority under this ordinance, the Planning Commission shall have the power to:

(1) Adopt rules and regulations to govern its operation and conduct of its hearing that are consistent with requirements of this subchapter;

(2) Conduct hearings to determine whether there has been a violation of a binding element;

(3) Subpoena alleged violators, witnesses and evidence to its hearings and all such subpoenas issued by the Planning Commission may be served by any Land Use Enforcement Officer;

(4) Take testimony under oath and the Chairman of the Planning Commission may administer such oaths to witnesses prior to their testimony before the Planning Commission on any matter;

(5) Make findings and issue orders that are necessary to remedy any violation of a binding element;

(6) Impose civil fines as authorized in this subchapter on any person found to have violated any binding element that the Planning Commission is authorized to enforce.

**§ 153.23 FORM CITATIONS AND ISSUANCE.**

(A) Enforcement proceedings for the violation of a binding element shall be initiated by the issuance of a citation by a Land Use Enforcement Officer.

(B) When a Land Use Enforcement Officer, based upon personal observation or investigation, has reasonable cause to believe that a violation of a binding element has occurred, the officer may issue a warning notice and citation to the offender. Prior to issuing a citation, however, the officer shall issue a warning notice giving the offender ten days, Saturdays, Sundays and holidays excluded, in which to remedy the violation. If the person to whom the notice is given fails or refuses to remedy the violation within the specified time, the Land Use Enforcement Officer may issue a citation. However, if the violation is a threat to the public safety, the Land Use Officer immediately shall issue a citation without a prior warning notice.

(C) The citation issued by the Land Use Enforcement Officer shall be in a form prescribed by the Planning Commission and shall contain, in addition to any other information required by the Planning Commission:

- (1) The date and time of issuance;
- (2) The name and address of the person to whom the citation is issued;
- (3) The date and time the violation of the binding element was committed;

- (4) The facts constituting the violation of the binding element;
- (5) A specific description of the binding element violated;
- (6) The name of the Land Use Enforcement Officer;
- (7) The civil fine that will be imposed for the violation if the person does not contest the citation;
- (8) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
- (9) A statement that if the person fails to pay the civil fine set forth in the citation or to contest the citation within the time allowed, the person shall be deemed to have waived the right to a hearing before the Planning Commission to contest the citation, and that the determination that a violation was committed shall be final.

(D) All citations issued shall be hand-delivered to the alleged violator. After issuing a citation to an alleged violator, the Land Use Enforcement Officer shall notify the Planning Commission by delivering the citation to the administrative official designated by the Planning Commission.

(E) When a citation is issued, the person to whom the citation is issued shall respond to the citation within 14 days of the date the citation is issued by either paying the civil fine set forth in the citation or requesting, in writing, a hearing before the Planning Commission to contest the citation. If the person fails to respond to the citation within 14 days, the person shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be considered final. In this event, the Planning Commission shall enter a final

order determining that the violation was committed and imposing the civil fine set forth in the citation.

**§ 153.24 HEARINGS BEFORE THE PLANNING COMMISSION.**

(A) When a hearing before the Planning Commission has been requested, the Planning Commission, through its clerical and administrative staff, shall schedule a hearing. The hearing shall be conducted within 30 days of the date of the request, unless the person who requested the hearing requests or agrees to a continuance not to exceed 30 days. All continuances must receive the approval of the Planning Commission, Not less than seven days before the date set for the hearing, the Planning Commission shall notify the person who requested the hearing of the date, time and place of the hearing. The notice may be given by certified mail, return-receipt requested; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the notice. Any person requesting a hearing before the Planning Commission who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be final. In this event, the Planning Commission shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

(B) Each case before a Planning Commission shall be presented by an attorney who shall be counsel to the Planning Commission.

(C) All testimony before the Planning Commission shall be under oath and shall be recorded. The Planning Commission shall take testimony from the Land Use

Enforcement Officer, the alleged offender, and any witnesses to the alleged violation offered by the Land Use Enforcement Officer or the alleged offender. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(D) After the hearing, the Planning Commission shall determine, based on the evidence presented, whether a violation was committed. When the Planning Commission determines that no violation was committed, an order dismissing the citation shall be entered. When the Planning Commission determines that a violation has been committed, it shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to the maximum authorized by this ordinance, or may order the offender to remedy a continuing violation within a specified time to avoid the imposition of a fine, or both, as authorized herein.

(E) Every final order to the Planning Commission shall be reduced to writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order of the Planning Commission is issued, the order shall be delivered to that person by certified mail, return-receipt requested; by personal delivery, or by leaving a copy of the order at that person's usual place of residence with any individual residing therein who is 18 years of age or older and who is informed of the contents of the order.

#### **§ 153.25 APPEAL OF PLANNING COMMISSION ORDERS.**

Any final order issued by the Planning Commission with respect to a citation for the violation of a binding element may be appealed in conformity with KRS 100.413.



**§ 153.26      PAYMENT OF FINES.**

The person or entity found to have committed a violation of a binding element shall be responsible for the amount of all fines assessed for the violation. A Planning Commission may bring a civil action in its name against the person or entity and shall have the remedies provided in KRS 100.415.

**§ 153.27      CIVIL ACTION.**

Nothing contained in this ordinance shall prohibit the Metro Government from taking immediate action in the court of appropriate jurisdiction to remedy a violation of a binding element when there is reason to believe that the existence of the binding element violation presents a serious threat to the public health, safety and welfare, or if in the absence of immediate action, the effects of the binding element violation will be irreparable or irreversible.

**§ 153.98      SEVERABILITY.**

If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

**§ 153.99      PENALTY.**

Any person who violates a binding element shall be subject to a fine or not less than \$500 nor more than \$4,000 and shall comply with such remedial orders as may be issued by the Planning Commission. Each day during which the binding element violation exists after the period granted by § 153.23(B) to remedy the violation shall be deemed a separate offense.

**Section II:** This Ordinance shall take effect upon passage and approval.

\_\_\_\_\_  
Kathleen J. Herron  
Metro Council Clerk

\_\_\_\_\_  
Rick Blackwell  
President of the Council

\_\_\_\_\_  
Jerry Abramson  
Mayor

Approved: \_\_\_\_\_  
Date

**APPROVED AS TO FORM AND LEGALITY:**

Irv Maze  
Jefferson County Attorney

By: \_\_\_\_\_